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 13 **UNITED STATES DISTRICT COURT**  
 14 **NORTHERN DISTRICT OF CALIFORNIA**

15 STANFORD HOSPITAL & CLINICS and  
 16 LUCILE PACKARD CHILDREN'S  
 17 HOSPITAL,

18 Petitioners,

19 vs.

20 SERVICE EMPLOYEES  
 21 INTERNATIONAL UNION, LOCAL 715,

22 Respondent.

23 Case No: 5:07-CV-05158-JF

24 STANFORD HOSPITAL AND  
 25 CLINICS AND LUCILE PACKARD  
 26 CHILDREN'S HOSPITAL'S MOTION  
 27 TO COMPEL RESPONSES TO  
 28 DISCOVERY SUBPOENA  
 PROPOUNDED TO LOCAL 521

Date: August 27, 2008  
 Time: 9:30 A.M.  
 Dept: Courtroom 4, 5th Floor  
 Judge: Hon. Jeremy Fogel  
 Magis. Judge: Hon. Richard Seeborg

29 SERVICE EMPLOYEES  
 30 INTERNATIONAL UNION, LOCAL 715

31 Petitioner and Counter-  
 32 Respondent,

33 vs.

34 STANFORD HOSPITAL & CLINICS and  
 35 LUCILE PACKARD CHILDREN'S  
 36 HOSPITAL

37 Respondents and Counter-  
 38 Petitioners.

39 Case No: 5:08-CV-00213-JF

40 Judge: Hon. Jeremy Fogel

41 STANFORD HOSPITAL AND CLINICS AND LUCILE PACKARD CHILDREN'S HOSPITAL'S MOTION TO  
 42 COMPEL RESPONSES TO DISCOVERY SUBPOENA PROPOUNDED TO LOCAL 521  
 43 CASE NOS. 5:07-CV-05158-JF, 5:08-CV-00213-JF, 5:08-CV-00215-JF;  
 44 5:08-CV-00216-JF; 5:08-CV-01726-JF; 5:08-CV-01727-JF

1 SERVICE EMPLOYEES  
2 INTERNATIONAL UNION, LOCAL 715

Case No: 5:08-CV-00215-JF

3 Petitioner,

4 vs.

5 STANFORD HOSPITAL & CLINICS and  
6 LUCILE PACKARD CHILDREN'S  
7 HOSPITAL

Judge: Hon. Jeremy Fogel

8 Respondents.

9 SERVICE EMPLOYEES  
10 INTERNATIONAL UNION, LOCAL 715

Case No: 5:08-CV-00216-JF

11 Petitioner,

12 vs.

13 STANFORD HOSPITAL & CLINICS and  
14 LUCILE PACKARD CHILDREN'S  
15 HOSPITAL

Judge: Hon. Jeremy Fogel

16 Respondents.

17 SERVICE EMPLOYEES  
18 INTERNATIONAL UNION, LOCAL 715

Case No: 5:08-CV-01726-JF

19 Petitioner,

20 vs.

21 STANFORD HOSPITAL & CLINICS and  
22 LUCILE PACKARD CHILDREN'S  
23 HOSPITAL

Judge: Hon. Jeremy Fogel

24 Respondents.

25 SERVICE EMPLOYEES  
26 INTERNATIONAL UNION, LOCAL 715

Case No: 5:08-CV-01727-JF

27 Petitioner,

28 vs.

29 STANFORD HOSPITAL & CLINICS and  
30 LUCILE PACKARD CHILDREN'S  
31 HOSPITAL

Judge: Hon. Jeremy Fogel

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2 **NOTICE OF MOTION AND MOTION**

3 TO ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS OF RECORD  
 4 HEREIN:

5 PLEASE TAKE NOTICE that on August 27, 2008 at 9:30 AM or as soon  
 6 thereafter as counsel may be heard in Courtroom Four on the Fifth Floor of the above  
 7 entitled court, located at 280 South 1st Street, San Jose, CA 95113, Stanford Hospitals &  
 8 Clinics and Lucille Packard Children's Hospital (collectively the "Hospitals") will bring  
 9 on for hearing their Motion to Compel Responses To Discovery Subpoena Propounded to  
 10 Local 521.

11 This motion is made on the grounds that Service Employees International Union,  
 12 Local 521 has failed to respond to subpoenas for business records served upon it by the  
 13 Hospitals. This Motion is based upon this Notice of Motion and Motion, the  
 14 Memorandum of Points and Authorities, the Declaration of Eileen R. Ridley, the records  
 15 and pleadings on file herein, and upon such oral and documentary evidence as may be  
 16 presented at the time of the hearing thereon.

17 **POINTS AND AUTHORITIES**

18 I. **INTRODUCTION**

19 These actions, declared related in the Court's order of February 29, 2008, involve  
 20 Stanford Hospital And Clinics and Lucile Packard Children's Hospital (the "Hospitals")  
 21 and three locals of the Service Employees International Union ("SEIU") known as SEIU,  
 22 Local 715 ("Local 715"), SEIU Local 521 ("Local 521") and SEIU, United Healthcare  
 23 Workers – West ("UHW") (sometimes collectively the "Locals"). Local 715 is a party to  
 24 each of the actions. Local 521 and UHW are not parties. After a case management  
 25 conference on April 25, 2008 during which the Court specifically approved discovery  
 26 into the existence, representation, and transactions of Local 715, the Hospitals issued  
 27 requests for production of documents ("RFPs") to Local 715 and business records

1 subpoenas on Local 521 and UHW. Local 521, after making procedurally and  
 2 substantively improper objections, failed to respond to the subpoena.

3 As Local 521 has, without justification, completely failed to produce the  
 4 subpoenaed documents, the Hospitals request that the Court order that Local 521 comply  
 5 with the subpoenas. Furthermore, particularly given that the Locals are all represented by  
 6 the same law firm, their conduct reflects a blatant and concerted attempt to “stonewall”  
 7 the Hospitals, and the Hospitals request that the Court impose appropriate sanctions.

8 **II. FACTUAL BACKGROUND**

9 Each of these actions involves the Hospitals’ obligation to arbitrate with Local 715  
 10 pursuant to a collective bargaining agreement (the “CBA”) and/or to comply with  
 11 arbitration awards purportedly issued pursuant to the CBA. The Hospitals have alleged  
 12 that Local 715, certified as the exclusive bargaining representative of a bargaining unit of  
 13 Hospital employees (the “Bargaining Unit”) in 1998, has effectively ceased to exist, and  
 14 that therefore there is no entity to act as petitioner in these actions and no party with  
 15 whom the Hospitals have an obligation to arbitrate.<sup>1</sup> [Declaration Of Eileen Ridley In  
 16 Support Of Motion (“Ridley Decl.”) Exh. B-D.] The Hospitals also assert that the  
 17 attorneys from the law firm of Weinberg Roger & Rosenfeld (the “Weinberg Firm” or  
 18 “Weinberg”) who have sought to participate in arbitration proceedings with the Hospitals  
 19 do not actually represent Local 715, but instead are retained by UHW and are acting  
 20 under the guise of an invalid servicing agreement (the “Servicing Agreement”). [Ridley  
 21 Decl. Exh. B-D.]

22 On April 25, 2008, the Court held a case management conference. At the CMC,  
 23 counsel for Local 715 argued that no discovery was necessary in the case. The Hospitals’  
 24 counsel argued, however, that, due to the Hospitals’ claims regarding the status of Local  
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26 <sup>1</sup> The Hospitals contend that Local 715 was merged into Local 521 and an improper  
 27 attempt was made to merge or transfer the Hospitals’ bargaining unit to UHW.

1 715, some discovery was necessary before dispositive motions could be filed.  
 2 Specifically, it was argued that discovery was necessary on the issues of Local 715's  
 3 continued existence, Local 715's resources, its capacity as representative of the  
 4 Bargaining Unit, and the legal representation provided to Local 715. [Ridley Decl. Exh.  
 5 E (P. 4-5).] The Court agreed and specifically approved discovery into these limited  
 6 areas. [Ridley Decl. Exh. E (P. 13-14).]

7 Accordingly, on May 16, 2008, the Hospitals served on Local 521 a business  
 8 records subpoena.<sup>2</sup> [Ridley Decl. Exh. R-W.] The document sought in the subpoena  
 9 pertains to: (1) the existence or non-existence of Local 715; (2) the representative status  
 10 of Local 715 (3) the nature of the representation provided by Weinberg; and (4) the  
 11 resources of Local 715 and the use and movement of those resources.

12 **A. Local 521 "Objects" To The Subpoenas**

13 On May 29, 2008, Andrea Laiacona from the Weinberg Firm, on behalf of Local  
 14 521, faxed a letter to Eileen Ridley, counsel for the Hospitals purporting to object to the  
 15 subpoenas. [Ridley Decl. Exh. Y.] Ms. Laiacona objected that the subpoenas sought  
 16 information that was irrelevant, overbroad, unduly burdensome, privileged, and/or  
 17 confidential. Ms. Laiacona's letter did not address any of the document requests  
 18 specifically, and, although privilege was raised, did not include a "privilege log."

19 On the same day, Ms. Ridley received a fax from William A. Sokol, another  
 20 attorney with the Weinberg Firm on behalf of UHW. The content of the letter was  
 21 essentially identical to that of Ms. Laiacona's letter.<sup>3</sup> [Ridley Decl. Exh. X.]

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23 <sup>2</sup> Six sets of RFPs were served on Local 715, one in each of the six cases. Likewise,  
 24 identical subpoenas were served on Local 521 and UHW in all six cases. The content of  
 25 the RFPs and subpoenas were, however, identical, and the Hospitals indicated that, in the  
 26 interest of efficiency, the responding parties could serve a single set of documents in  
 27 response to the requests in all six cases. [Ridley Decl. Exh. Z & AA]

28 <sup>3</sup> Both letters were actually signed by "BH" who Ms. Ridley took to be Bruce Harland,  
 29 another Weinberg Attorney who has responded on behalf of Local 715. [Ridley Decl. ¶  
 30 10.]

1       On June 9, 2008, Ms. Ridley sent letters to Ms. Laiacaona and Mr. Sokol  
 2 responding to their “objections.” Ms. Ridley informed Ms. Laiacaona and Ms. Sokol that  
 3 their objections were not well-taken, but offered to work with them in the event that they  
 4 were concerned as to the volume of documents to be produced, or to address any other  
 5 logistical and/or expense issues that might arise. [Ridley Decl. Exh. Z-AA.] Mr. Sokol,  
 6 responded by claiming that the subpoenas were abusive and harassing. [Ridley Decl.  
 7 Exh. BB.]

8           **B. Local 521 Fails To Respond To The Subpoena**

9       Neither of the Locals responded to Ms. Ridley’s May 9, 2008 letter before the  
 10 deadline to respond to the subpoenas. [Ridley Decl. ¶ 13] The responses of Local 521  
 11 and UHW to the subpoenas were due on June 18, 2008. However, neither local has  
 12 provided any response to date. [Ridley Decl. ¶ 13.]

13       On June 26, 2006 – over a week after responses to the subpoenas were due – Ms.  
 14 Laiacaona sent a letter to Ms. Ridley responding to her letter of May 9, 2008. She stated  
 15 that she was “reiterating” her position stated in her May 29, 2008 letter, asserted  
 16 (incorrectly) that the Hospitals had conceded that Local 715 exists, and accused the  
 17 Hospitals of propounding discovery in bad faith and for purposes of harassment. [Ridley  
 18 Decl. Exh. CC.]

19       Ms. Ridley and her associate Scott Inciardi responded to these letters via fax on  
 20 the evening of June 30, 2008, requesting that Ms. Laiacaona and Mr. Sokol confirm that  
 21 their clients would provide responses to the subpoenas to avoid the necessity of a motion  
 22 to compel. [Ridley Decl. Exh. NN-OO.]

23       On July 9, 2008, Ms. Ridley and Mr. Harland met and conferred regarding  
 24 outstanding discovery issues, including the responses of Local 521 and UHW to the  
 25 subpoenas. Ms. Ridley outlined the Hospitals’ position regarding the Locals’ obligation  
 26 to produce documents and requested again that Local 521 and UHW respond to the  
 27 subpoenas. [Ridley Decl. ¶ 25 & Exh. WW.] The parties have, however, been unable to

1 resolve the matter informally.

2 **III. DISCUSSION**

3 **A. Local 521 Completely And Without Justification Failed To Provide**  

4 **Responses To The Subpoena**

5 The failure of Local 521 to comply with the subpoenas issued to them could not be  
 6 more clear; they refused to respond altogether. While both locals purported to object to  
 7 the subpoenas, their objections consisted of nothing more than unsupported and  
 8 generalized boilerplate assertions. [Ridley Decl. Exh. X & Y.] Under Federal Rule 45,  
 9 non-parties objecting to subpoenas are subject to the same requirement applicable to  
 10 parties responding to discovery requests, i.e., that their objections be particularized.  
 11 *Sabol v. Brooks*, 469 F.Supp.2d 324, 328-329 (D.MD. 2006). A generalized unsupported  
 12 objection to a subpoena is insufficient, and constitutes a waiver of such objections. *Id.*  
 13 *Thomas v. Hickman*, 2007 WL 4302974 (E.D.Cal. 2007) (Slip Op. at 10) (“Objections  
 14 that are not sufficiently specific, such as statements that requests are overly broad,  
 15 burdensome, or oppressive, are waived.”); *Ramirez v. City Of Los Angeles*, 231 F.R.D.  
 16 407, 409 (E.D.Cal. 2005) (“it is well-settled that all grounds for objection must be stated  
 17 with specificity.”).

18 Additionally, Rule 45(d)(2)(A) specifically provides that a party objecting to a  
 19 subpoena on the grounds that it requires the production of documents protected by a  
 20 privilege or as trial preparation material must provide a privilege log describing the  
 21 nature of withheld documents with sufficient specificity to allow the subpoenaing party to  
 22 assess the claim of privilege or protection. Although Local 521 asserted the attorney-  
 23 client privilege and work product doctrine, they did not provide the required privilege  
 24 log.

25 In sum, Local 521’s attempt to object to the subpoenas was patently and totally  
 26 inadequate, and therefore, such objections were waived. Both locals have provided no  
 27 response whatsoever to the subpoenas. This Court should order compliance with the

1 subpoenas and impose sanctions.

2 **B. Local 715, Local 521 And UHW Have Chosen To Engage In A  
3 Concerted Effort To Frustrate Discovery In This Case, And Their  
4 Conduct Should Result In Sanctions**

5 The Locals, all being represented by the same firm, were well aware that Judge  
6 Fogel ruled at the CMC that the Hospitals were entitled to seek discovery on the status of  
7 Local 715, its representative status, its legal representation, and its transactions with other  
8 SEIU Locals, and that such discovery needed to be completed expeditiously in order to  
9 allow the parties to file dispositive motions on July 18, 2008. Yet, rather than make a  
10 good faith response, Local 521 chose to refuse to respond to the subpoenas. The Locals'  
11 attorneys have refused to cooperate with counsel for the Hospitals. Rather than working  
12 with the Hospitals, they have chosen to resort to shrill and empty accusations of  
13 harassment and bad faith. This conduct created the necessity for this motion.<sup>4</sup>

14 This Court is authorized to hold in contempt any person who fails to obey a  
15 subpoena without adequate excuse. F.R.Civ.P. 45(e). Given the Locals' complete failure  
16 to adhere to the spirit and the letter of the federal discovery rules, an order holding Local  
17 521 in contempt is appropriate. The Hospitals respectfully request that that the Court  
18 order sanctions against Local 521 and its counsel for the costs associated with brining this  
19 motion, including attorneys fees. The Hospitals estimate that they have spent and/or  
20 anticipate spending approximately \$12,000 to bring this motion. [Ridley Decl. ¶ 35.]

21 **IV. CONCLUSION**

22 For the foregoing reasons, Stanford Hospital And Clinics and Lucile Packard  
23 Children's Hospital respectfully request that the motion be granted, that Local 521 be  
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25 <sup>4</sup> This conduct should also be viewed in the context of the Weinberg Firm's refusal to  
26 produce witnesses for depositions and to cooperate in selecting alternative dates for  
27 depositions as detailed in the Hospitals' Motion to Compel Depositions filed concurrently  
with this motion.

1 ordered to provide complete responses to the subpoenas, and that appropriate sanctions  
2 be imposed.

3 Dated: July 11, 2008

4 FOLEY & LARDNER LLP  
5 LAURENCE R. ARNOLD  
EILEEN R. RIDLEY  
SCOTT P. INCIARDI

6

7 By: /s/ \_\_\_\_\_

8 EILEEN R. RIDLEY  
9 Attorneys for STANFORD HOSPITAL &  
CLINICS and LUCILE PACKARD  
CHILDREN'S HOSPITAL

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